Remarks

Reconsideration and allowance of this application are respectfully requested.

Claims 1-13 remain pending in the application. Claim 1 is independent.

Applicant acknowledges with gratitude the personal interview conducted with the examiner and the supervisory examiner on April 1, 2009. During the interview Applicant's representative explained that the obviousness rejection based on U.S. Patent No. 6,284,141 to Shaldon et al. is unwarranted because Shaldon fails to meet each feature of Applicant's claimed invention. (With regard to the Interview Summary, Applicant's representative notes that U.S. Patent No. 6,793,827 to Bosetto et al. was not discussed during the interview.) As the Interview Summary acknowledges, the examiner indicated that "it appears that Shaldon fails to teach the monitoring of flow rate."

35 U.S.C. § 103(a) – Shaldon

Claims 1, 2, and 6-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,284,141 to Shaldon et al. (hereinafter "Shaldon"). The examiner again acknowledges that Shaldon "does not explicitly state that the system comprises both an analyzer unit *and* a control unit" (Office Action page 3, numbered paragraph 3).

The rejection of claims 1, 2, and 6-8 under § 103(a) based on Shaldon is respectfully traversed. For at least all of the reasons presented in Applicant's Amendment filed September 15, 2008, and the following reasons, the disclosure of Shaldon would not have rendered obvious Applicant's claimed invention.

By way of review, previously presented claim 1 defines a blood treatment device that includes "a control unit for controlling the blood treatment device" and "an analyzer unit which is connected to the control unit." The analyzer unit is configured

> (i) to determine on the basis of detected values of the at least one sensor the concentration Cbi of the substance in the blood in the blood inlet line, the instantaneous transfer rate $\Delta M/\Delta t$ of the substance through the membrane, and the total quantity M of the substance withdrawn through the membrane during the treatment, (ii) to store a first admissible value range for the blood concentration Cbi of the substance, a second admissible value range for the transfer rate $\Delta M/\Delta t$, and a third admissible value range for the total quantity M of the substance to be withdrawn, and (iii) to instruct the control unit such that the blood treatment device performs the blood treatment while maintaining all three of the admissible value ranges.

Therefore, claim 1 defines features of the device not met by Shaldon, including, *inter alia*, "the analyzer unit being configured . . . (iii) to instruct the control unit such that the blood treatment device performs the blood treatment *while maintaining all three of the admissible value ranges.*"

The examiner asserts that Shaldon discloses a sensor connected to a computer, and that the computer is capable of determining "the concentration of a substance in the blood, the

transfer rate of the substance, and total quantity of the substance withdrawn by the membrane" (Office Action page 2). The examiner also implies that Shaldon's "analyzer unit" would compare the values for the concentration, the transfer rate, and the quantity removed with corresponding admissible value ranges.

Applicant's invention, however, is directed to a service in which all of the three named parameters are critical during a blood treatment. As a consequence, the instant invention is configured to control and hence ascertain that the concentration of the substance in the blood, the instantaneous transfer rate, and the total quantity of this substance withdrawn through the membrane of the blood purification element are maintained within predetermined limits.

Shaldon's system is structurally and functionally different from Applicant's claimed device. As even the examiner acknowledges, various structural features of Applicant's claimed device are not disclosed by Shaldon. Furthermore, Shaldon is silent with regard to comparing the concentration of the substance in the blood with predetermined limits. As far as the transfer rate of the substance is concerned, Shaldon only addresses an efficiency of the treatment procedure, and refers to the coefficient K/V. However, K is the clearance of the blood purification element, which refers to a flow of blood that is purified from the substance during a certain time period. This certainly is not the same as Applicant's claim feature that is

directed to the transfer rate $\Delta M/\Delta t$, which clearly defines the mass transfer rate through the membrane. Accordingly, Shaldon does not disclose comparing the mass transfer rate with predetermined limits.

Because of the aforementioned structural and functional differences, there is simply no teaching in Shaldon that would have led one to modify the reference in a way that would result in the invention defined by Applicant's claim 1. Accordingly, the disclosure of Shaldon would not have rendered obvious Applicant's claimed invention. Claims 2 and 6-8 are allowable because they depend from claim 1, and for the subject matter recited therein.

35 U.S.C. § 103(a) – Shaldon and Bosetto

Claims 3-5 and 9-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaldon in view of U.S. Patent No. 6,793,827 to Bosetto et al. ("Bosetto").

The rejection of claims 3-5 and 9-13 under § 103(a) based on Shaldon in view of Bosetto is also respectfully traversed. Claims 3-5 and 9-13 depend, either directly or indirectly, from claim 1. Claim 1 is allowable over Shaldon for at least the reasons outlined above in response to the rejection under § 103(a). Regardless of what Bosetto may disclose with regard to the use of sensors, the disclosure of Bosetto does not rectify any of the above-described deficiencies of Shaldon. Claims 3-5 and 9-13 are

allowable because they depend from claim 1, and for the subject matter recited therein.

Furthermore, there is no teaching in either Shaldon or Bosetto that would have led one to select the references and combine them in a way that would produce the invention defined by any of Applicant's claims 3-5 and 9-13.

Accordingly, the combined disclosures of Shaldon or Bosetto would not have rendered obvious the invention defined by any of Applicant's claims 3-5 and 9-13.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that another interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

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